

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:18-cv-10504-VBF (SP)	Date	October 20, 2021
Title	DONALD W. CAGLE JR. v. SWAVY, et al.		

Present: The Honorable	Sheri Pym, United States Magistrate Judge
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Kimberly Carter

None Appearing

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

None Appearing

None Appearing

Proceedings: (In Chambers) Second Order to Show Cause Why Complaint Should Not Be Dismissed for Failure to Prosecute

On July 1, 2019, plaintiff Donald W. Cagle Jr., a California prisoner proceeding pro se, filed a First Amended Complaint ("FAC") in this action. The FAC alleges prison physician was deliberately indifferent to his medical needs. On November 20, 2020, this court, having completed screening of the FAC, found it subject to dismissal and granted plaintiff leave to file a Second Amended Complaint by December 2, 2020. The court also instructed plaintiff he could notify the court by December 2, 2020 that he intended to stand on the FAC without amendment.

After the court did not received a Second Amended Complaint or any other communication from plaintiff, on March 3, 2021, plaintiff issued an Order to Show Cause by March 24, 2021 why the action should not be dismissed for failure to prosecute or comply with a court order. Plaintiff responded to the Order to Show Cause on March 19, 2021, stating he had been unable to file a Second Amended Complaint due to a COVID-19 quarantine, and proposed a settlement. Given that the court has found the sole claim in the FAC is subject to dismissal, the court will not refer the case for a settlement conference at this time. But now that some time has passed and prison conditions may have changed, the court will give plaintiff one more opportunity to file a Second Amended Complaint.

Accordingly, within 30 days of the date of this Order, that is, by **November 19, 2021**, plaintiff is **ORDERED TO SHOW CAUSE**, in writing, why this action should not be dismissed for failure to prosecute and/or comply with a court order. Plaintiff is

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again cautioned that his failure to timely file a response to this Order to Show Cause will be deemed by the court as consent to the dismissal of this action without prejudice. In the event plaintiff wishes to voluntarily dismiss this action, plaintiff may complete and return the enclosed Notice of Dismissal form by November 19, 2021.

If plaintiff files a Second Amended Complaint by November 19, 2021, this Order to Show Cause will be automatically discharged, and plaintiff need not respond to it separately.